

2006 WL 3953321

Only the Westlaw citation is currently available.
United States District Court,
E.D. Michigan,
Southern Division.

COALITION TO DEFEND AFFIRMATIVE ACTION, Integration and Immigration Rights and Fight for Equality by Any Means Necessary (BAMN), United for Equality and Affirmative Action Legal Defense Fund, Rainbow Push Coalition, Calvin Jevon Cochran, Lashelle Benjamin, Beautie Mitchell, Denesha Richey, Stasia Brown, Michael Gibson, Christopher Sutton, Laquay Johnson, Turquoise Wise-King, Brandon Flannigan, Josie Human, Issamar Camacho, Kahleif Henry, Shanae Tatum, Maricruz Lopez, Alejandra Cruz, Adarene Hoag, Candice Young, Tristan Taylor, Williams Frazier, Jerell Erves, Matthew Griffith, Lacrissa Beverly, D'Shawm Featherstone, Danielle Nelson, Julius Carter, Kevin Smith, Kyle Smith, Paris Butler, Touissant King, Aiana Scott, Allen Vonou, Randiah Green, Brittany Jones, Courtney Drake, Dante Dixon, Joseph Henry Reed, AFSCME Local 207, AFSCME Local 214, AFSCME Local 312, AFSCME Local 836, AFSCME Local 1642, AFSCME Local 2920, and the Defend Affirmative Action Party, Plaintiffs,

v.

Jennifer GRANHOLM, in her official capacity as Governor of the State of Michigan, the Regents of the University of Michigan, the Board of Trustees of Michigan State University, the Board of Governors of Wayne State University, and the Trustees of any other public college or university, community college, or school district, Defendants,

and

Regents of the University of Michigan, the Board of Trustees of Michigan State University and the Board of Governors of Wayne State University, Cross-Plaintiffs,

v.

Jennifer Granholm, in her official capacity as Governor of the State of Michigan, Cross-Defendant.

No. 06-15024. | Dec. 19, 2006.

Attorneys and Law Firms

George B. Washington, Shanta Driver, Scheff & Washington, Detroit, MI, Erwin S. Chemerinsky, Duke University Law School, Durham, NC, Jerome R. Watson, Miller, Canfield, Kary L. Moss, Mark P. Fancher, Michael J. Steinberg, American Civil Liberties Union Fund of Michigan, Melvin J. Hollowell, Jr., Allen Brothers, Reginald M. Turner, Jr., Clark Hill, Detroit, MI, Laurence H. Tribe, Cambridge, MA, Theodore M. Shaw, Naaep Legal Defense and Educational Fund, New York, NY, for Plaintiffs.

Brigham C. Smith, Lansing City Attorney's Office, Lansing, MI, for Intervenor Plaintiffs.

City of Lansing, Lansing City Attorney, Lansing, MI, Pro Se.

James E. Long, Brian O. Neill, Michigan Department of Attorney General, Lansing, MI, Laurie J. Michelson, Butzel Long, Detroit, MI, Leonard M. Niehoff, Ann Arbor, MI, for Defendants.

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Laurie J. Michelson, Butzel Long, Detroit, MI, Leonard M. Niehoff, Ann Arbor, MI, for Cross Claimants.

James E. Long, Brian O. Neill, Michigan Department Of Attorney General, Lansing, MI, for Cross Defendant.

Opinion

ORDER GRANTING TEMPORARY INJUNCTION AND DISMISSING CROSS-CLAIM IN PART

Coalition To Defend Affirmative Action v. Granholm, Not Reported in F.Supp.2d (2006)

DAVID M. LAWSON, United States District Judge.

*1 This case was commenced on November 8, 2006 by several plaintiffs who claim that a recently-approved state constitutional amendment, Proposal 06-2, now known as Article 1, section 26 of the Michigan Constitution of 1963, that purports to bar the use of race, sex, color, ethnicity, or national origin to promote diversity in public hiring, contracting, and university admission decisions, violates the United States Constitution. On December 11, 2006, defendants Regents of the University of Michigan, the Board of Trustees of Michigan State University, and the Board of Governors of Wayne State University filed a cross-claim against co-defendant Governor Jennifer Granholm seeking declaratory relief. The University parties also requested a preliminary injunction to delay the implementation of the state constitutional amendment until the current enrollment season is completed. Thereafter, the Michigan Attorney General sought permission to intervene as a defendant in the matter, together with a motion to expedite consideration of the motion to intervene, citing his “duty to defend the constitutionality” of the ballot initiative. Mot. to Intervene ¶ 13. The parties to the case either took no position or consented to the relief, and the Court granted the motion to intervene on December 14, 2006.

On December 18, 2006, the Court received a stipulation from all parties to the case, including intervening defendant Michigan Attorney General, consenting to the temporary injunctive relief sought by the cross-claimants (the University defendants), and agreeing to dismiss the portion of the cross-claim seeking a temporary injunction [dkt # 26]. The Court finds that the interests of all parties and the public are represented adequately through the state defendants and their various elected representatives, and the Court, therefore, will approve the stipulation.

Accordingly, it is **ORDERED** that the application of Article 1, section 26 of the Michigan Constitution of 1963 to the current admissions and financial aid policies of defendants Regents of the University of Michigan, the Board of Trustees of Michigan State University, and the Board of Governors of Wayne State University is enjoined from this date through the end of the current admissions and financial aid cycles or until further order of the Court. This injunction shall expire at 12:01 a.m. on July 1, 2007, unless it is vacated by the Court before that date.

It is further **ORDERED** that the portion of the cross-claim by defendants Regents of the University of Michigan, the Board of Trustees of Michigan State University, and the Board of Governors of Wayne State University seeking temporary injunctive relief is **DISMISSED WITH PREJUDICE**. The cross-claimants may proceed on the remaining part of their cross-claim.

It is further **ORDERED** that each party shall bear its own fees and costs.

It is further **ORDERED** that the motion for preliminary injunction [dkt # 5] is **DISMISSED** as moot.